



# UNITED STATES DISTRICT COURT

for the

Middle District of North Carolina

Greensboro Division

Shawn Patrick Ellis

Case No.

1:22cv573

(to be filled in by the Clerk's Office)

*Plaintiff(s)*

*(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)*

-v-

Cabarrus County Sheriff's Office,  
Kevin M. Klinglesmith, Joshua Helms, David B. Riley

*Defendant(s)*

*(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)*

Jury Trial: (check one) ☒ Yes ☐ No

## COMPLAINT FOR VIOLATION OF CIVIL RIGHTS (Non-Prisoner Complaint)

### NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

**I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Shawn Patrick Ellis		
Address	11421 NC Highway 49 N		
	Mount Pleasant	NC	28124
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Cabarrus		
Telephone Number	980-622-2802		
E-Mail Address	kellie321@hotmail.com		

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

**Defendant No. 1**

Name	Cabarrus County Sheriff's Office		
Job or Title <i>(if known)</i>			
Address	30 Corban Ave SE		
	Concord	NC	28025
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Cabarrus		
Telephone Number	704-920-3000		
E-Mail Address <i>(if known)</i>			
<input type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

**Defendant No. 2**

Name	Kevin M. Klinglesmith		
Job or Title <i>(if known)</i>	Captain		
Address	30 Corban Ave SE		
	Concord	NC	28025
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Cabarrus		
Telephone Number	704-920-3000		
E-Mail Address <i>(if known)</i>			
<input checked="" type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

## Defendant No. 3

Name Joshua Helms

Job or Title (if known)

Address

30 Corban Ave SE

Concord

NC

28025

City

State

Zip Code

County

Cabarrus

Telephone Number

704-920-3000

E-Mail Address (if known)



Individual capacity



Official capacity

## Defendant No. 4

Name David Brad Riley

Job or Title (if known)

Address

7491 Edgefield Rd

Concord

NC

28025

City

State

Zip Code

County

Cabarrus

Telephone Number

E-Mail Address (if known)



Individual capacity



Official capacity

## II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

Federal officials (a *Bivens* claim)

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials? Fourth Amendment Violation for an unconstitutional search and seizure.

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

N/A

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- D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.
- Kevin KlingleSmith and Joshua Helms came to my property to conduct a knock and talk. They entered my property and performed an illegal search of the curtilage surrounding my home. Please see attached officer statements and appeals court ruling. David Brad Riley was the acting Sheriff in Cabarrus County at the time of the incident. As the acting Sheriff, he was responsible for the training and conduct of his subordinates. Cabarrus County Sheriff's Office failed to properly train their employees. +

### III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?  
The event occurred at my home located at 11421 NC Highway 49 N, Mount Pleasant, NC
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- B. What date and approximate time did the events giving rise to your claim(s) occur?  
Tuesday, September 9th, 2014 at approximately 10:30 am
- 
- C. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)
- Detectives Joshua Helms and Kevin KlingleSmith, acting in their official capacity as employees of the Cabarrus County Sheriff's Office, were performing an investigation on the morning of September 9th, 2014. In an effort to further their investigation, the detectives entered my property to perform a knock and talk. They then proceeded to perform an illegal search of my property. I was subsequently arrested and charged resulting in a nearly five year long court process.
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#### **IV. Injuries**

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Since the incident, I have suffered from PTSD like symptoms. I did seek and receive medical care shortly thereafter.

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#### **V. Relief**

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I am seeking compensatory damages in the amount of \$7,900.00 for legal expenses that I have incurred.

I am also seeking punitive damages in the amount of \$33,000.00 for the Fourth Amendment violation of my rights, mental anguish, anxiety, undue stress, pain and suffering, travel expenses to and from court appearances and bond restrictions for nearly five years.

Additionally, I am requesting for Cabarrus County Sheriff's Office to evaluate and revise their training policy involving knock and talks.

## VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

### A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 07-20-2022

Signature of Plaintiff

Shawn Patrick Ellis

Printed Name of Plaintiff

Shawn Patrick Ellis

### B. For Attorneys

Date of signing: \_\_\_\_\_

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

\_\_\_\_\_  
*City*

\_\_\_\_\_  
*State*

\_\_\_\_\_  
*Zip Code*

Telephone Number

E-mail Address